

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LEXY AVILA,

Plaintiff,

-against-

STACY TENZIE, NYC CORRECTIONAL,
OFFICER SHIELD NO. 1478

Defendant.
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ORDER

19 Civ. 11920 (VEC)(GWG)

GABRIEL W. GORENSTEIN, United States Magistrate Judge

Plaintiff Lexy Avila, pro se, filed this case on December 30, 2019, and filed an amended complaint on July 16, 2020. Defendant Stacy Tenzie filed a motion to dismiss the amended complaint on August 21, 2020. See Docket # 30. The Court extended Avila's time to respond until October 23, 2020. See Memorandum Endorsement, entered September 23, 2020 (Docket # 35). After that date passed without a response from Avila, defendant asked this Court to consider the motion fully briefed and to grant the motion to dismiss. See Letter from James R. Murray dated October 30, 2020 (Docket # 36). The Court denied that request and extended the deadline again to November 30, 2020, in an order dated October 30, 2020 (Docket # 38). That Order required plaintiff to file a letter by the November 30 deadline even if she did not file papers opposing the motion. Id. Avila, however, failed to comply with that Order.

The defendant once again asks this Court to consider the motion fully briefed and to grant the motion to dismiss. See Letter from James R. Murray dated December 7, 2020. (Docket # 38). While Avila has failed to comply with this Court's prior Order, in light of her pro se status, the Court is prepared to give her one final opportunity to comply with the Court's order.

Accordingly, it is hereby ORDERED that on or before January 3, 2021, Avila must either (1) file a letter or memorandum responding to the motion to dismiss or (2) file a letter informing this Court whether she intends to proceed with this case. If plaintiff does not comply with this Order, her case may be dismissed for failure to prosecute under Rule 41 of the Federal Rules of Civil Procedure.

Plaintiff shall make her filing by mailing it to Pro Se Docketing, U.S. Courthouse, 500 Pearl Street, New York, NY 10007.

The Clerk is requested to mail a copy of this order to plaintiff.

SO ORDERED.

Dated: October 30, 2020
New York, NY


GABRIEL W. CORENSTEIN
United States Magistrate Judge